

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**

**April 17, 2014**



**Rezoning case no. RZ 14-10: City of Bryan**

**CASE DESCRIPTION:** a request to change the zoning classification from Industrial District (I) to Residential District – 5000 (RD-5)

**LOCATION:** approximately 5.5 acres of land bounded by Eden Lane, Finfeather Road and Palasota Drive, as well as on approximately 0.29 acres of land adjoining the north side of Eden Lane between Finfeather Road and Barbara Street

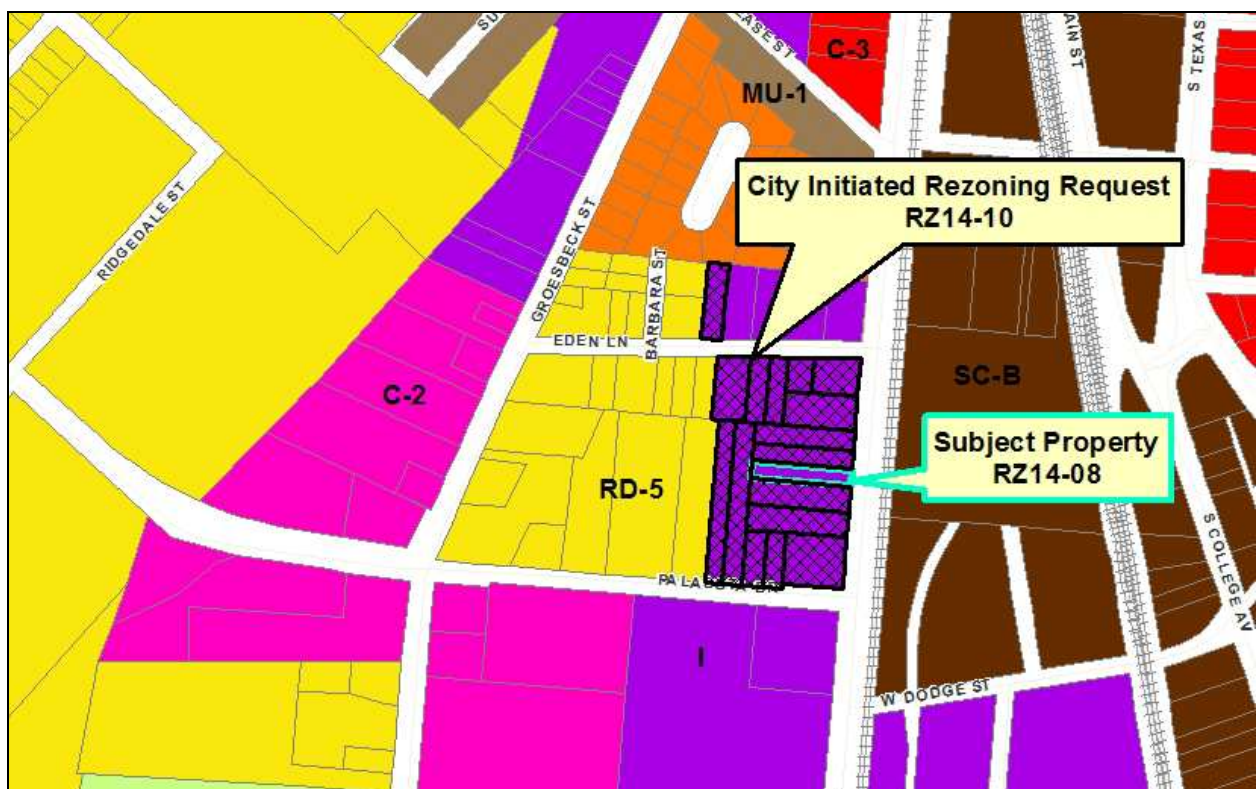
**LEGAL DESCRIPTION:** Lots 1, 9 thru 14, and 17 of Coulter's Subdivision of the Lobello Tract, as well as Lots 1 thru 5 and Lot 13 in Block 3, and Lot 2 and the west half of Lots 7 and 8 in Block 2 of Noble Eden Subdivision

**EXISTING LAND USE:** single-family homes, vacant lots,

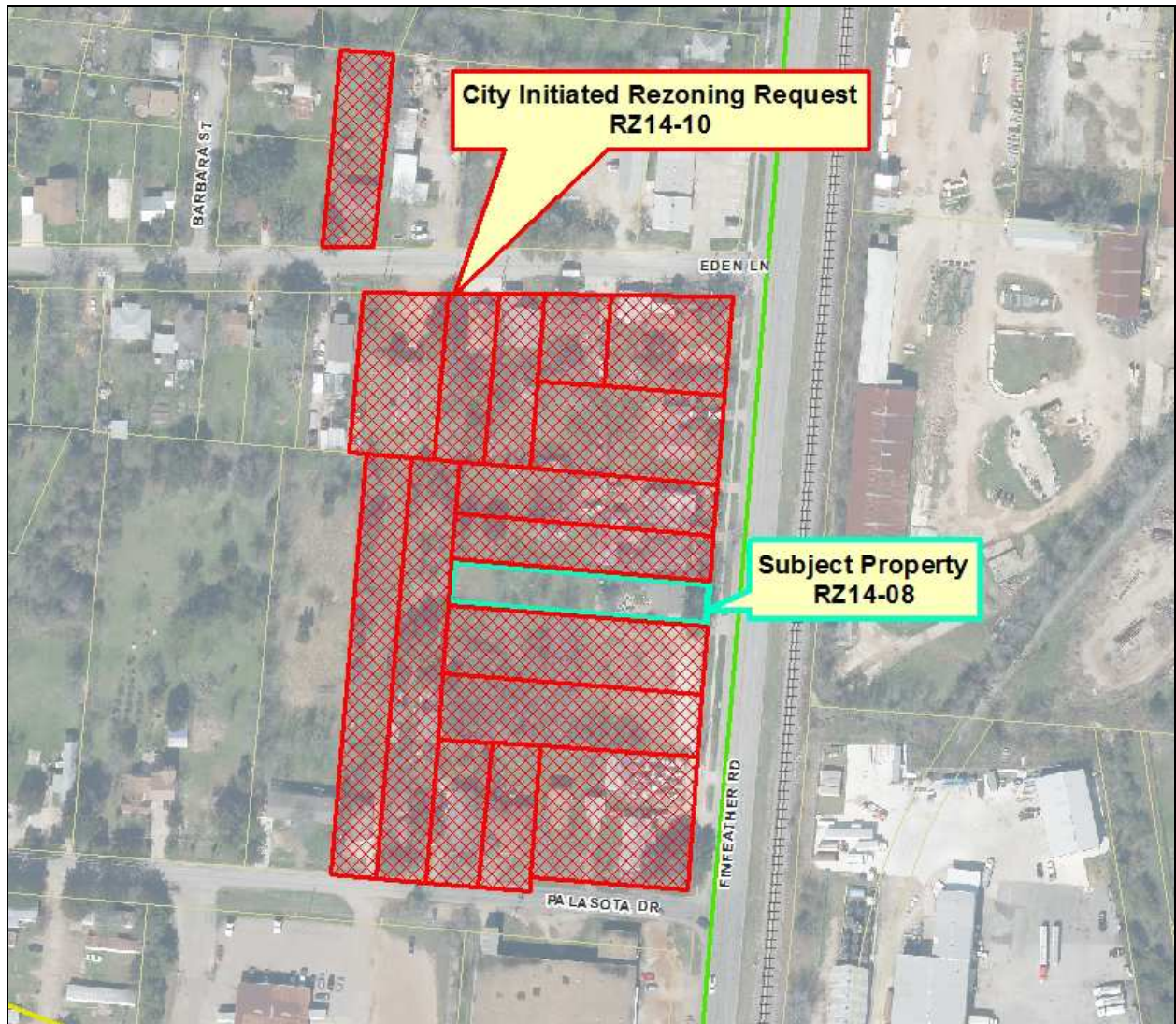
**APPLICANT(S):** City of Bryan

**STAFF CONTACT:** Randy Haynes, Senior Planner

**SUMMARY RECOMMENDATION:** Staff recommends **approving** this rezoning request.



**SPATIAL RELATIONSHIP OF SUBJECT PROPERTIES, RZ14-08 AND RZ14-10:**





## **AERIAL PHOTOGRAPH (2013):**



## **BACKGROUND:**

The subject property is comprised of 15 individual tracts covering approximately 5.5 acres of land bounded by Eden Lane, Finfeather Road and Palasota Drive, as well as one approximately 0.29 acre tract adjoining the north side of Eden Lane between Finfeather Road and Barbara Street. Of the 16 lots that are the subject of this request, 13 are occupied by single-family residences, one contains a church and two are vacant. In at least two of the properties, commercial use is also present. If the request for rezoning to the property is approved by the City Council, the existing commercial uses will be allowed to continue as legally nonconforming. All of the properties involved in this rezoning request (case no. RZ14-10) were zoned for industrial use upon the initial implementation of zoning in Bryan on December 11, 1989.

Land to the west along both side of Eden Lane and north of Palasota Drive is zoned Residential District – 5000 (RD-5) and developed with detached single-family residences of lots more than 1 acre in size. Land to the north and south of the subject property is occupied by heavy commercial businesses located on land

zoned for industrial use. Finfeather Road, classified as minor arterial street on Bryan's Thoroughfare Plan, and a Union Pacific railroad right-of-way are located east of the subject property.

The subject property surrounds a 0.35-acre lot at 1410 Finfeather Road that is the subject of rezoning case no. RZ14-08, which is also scheduled for consideration by the Planning and Zoning Commission during its meeting on April 17, 2014. The applicant in that case, Mr. Glen Conrad, has requested to change the zoning of that property, which is occupied by a single-family home, to RD-5 District. It is Mr. Conrad's wish to enter into a real estate transaction involving his property, but that process has been thwarted due to the fact that the land is zoned Industrial District, which does not allow residential land uses. Even though the existing residential use is grandfathered, should the house be destroyed or substantially damaged (greater than 60% of the Brazos County Appraisal District's assessed value), the reconstruction of a residence would not be allowed.

All of the land that is subject of this request question is also zoned Industrial District (I). This zoning district is intended primarily for the conduct of manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations which may depend upon frequent customer or client visits. Single-family residences are not permitted in Industrial zoning districts. However, most of the land in this area has long been occupied by single-family homes for many years, most even since before Bryan's adoption of zoning regulations in 1989.

Because of the way zoning law is written, existing homes may continue to be used as residences for as long as the owner wishes. This is commonly called "grandfathering". Potential problems that may arise due to the current discrepancy between zoning and actual land use include difficulty or delays when trying to buy or sell property, obstacles when wanting to rebuild a home that was heavily damaged or destroyed, and the potential for a business locating close to residences that may negatively affect the living comfort in what has traditionally been a residential area.

During a workshop meeting on March 20, 2014, City staff made the Planning and Zoning Commission aware of Mr. Conrad's request for RD-5 zoning and the discrepancy between how land in this vicinity is zoned, and how this land is actually being used. Commissioners were presented with different suggestions of how the zoning map could be amended to address this discrepancy, and thereby help protect existing residential land use in this area, and promote orderly urban growth in this part of Bryan. By consensus, Commissioners directed staff to initiate a rezoning of these properties to RD-5 District. The RD – 5000 District is intended primarily to provide development opportunities for detached dwelling units on lots of not less than 5,000 square feet in size and is designed primarily for residential use and does not easily lend itself to other types of nonresidential uses.

## **RELATION TO BRYAN'S COMPREHENSIVE PLAN:**

The Comprehensive Plan includes policy recommendations related to various use specific types of development.

### **5.5 Land Use Policies**

Low Density Residential land serves to provide housing and living units for a variety of people with a range of incomes and needs. It predominantly consists of detached single family dwellings but may consist of other housing types as long as densities remain low; up to 8 dwelling units per acre. These uses should be located in areas that are:

- Protected from but accessible to the major roadway network, commercial establishments, work places and entertainment areas;

- Accessible to collector and arterial streets, but directly access only local streets; and
- Not adjacent to major arterials and freeways without adequate buffering and access management.

## 5.6 Goals, Objectives and Action Statements

**GOAL #2: Facilitate orderly, efficient and attractive development, redevelopment and infill.**

**Objective A: Provide for an efficient development process.**

*Action Statement 1:* Reevaluate the current zoning code to identify inconsistencies and impediments to development.

## ANALYSIS:

In making its recommendation regarding a proposed zoning change, the Planning and Zoning Commission shall consider the following factors:

1. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned; relationship to general area and the City as a whole.

**Bryan's Zoning Ordinance requires substantial no-development buffer areas along mutual side or rear property lines wherever development in an Industrial zoning district adjoins land zoned for residential use. Because of this, any request for change from or to Industrial District zoning should take into account the impact that such a change could have on the subject property as well as on surrounding property.**

**In this particular case, staff contends changing only the zoning on Mr. Conrad's 0.35-acre property at 1410 Finfeather Road, as it has been requested with Rezoning case no. RZ14-08, would have the effect of rendering a significant amount of the surrounding land undevelopable for future industrial use. In light of the fact that most properties surrounding Mr. Conrad's property are, for the most part, either also currently in residential use or vacant, with most properties being occupied by homes that have existed here long before the implementation of zoning in Bryan in December 1989, staff believes that rezoning all of the subject property is appropriate in this particular context. RD-5 zoning would protect existing residential land use in this area, prevent the emergence of undesirable land uses in close proximity to established single-family home sites, and promote orderly urban growth in this part of Bryan.**

**Although adjacent to a minor arterial roadway, staff believes that single-family residential use is appropriate on the subject property due to its proximity to other single-family residences, and the absence of industrial uses within its boundary. Staff contends that the land uses allowed in the RD-5 District will be compatible in the immediate area surrounding the subject property and would fit within the adopted goals and land use policies set out in the Comprehensive Plan.**

**If this and Mr. Conrad's request for RD-5 zoning were approved, a cluster of Industrial District zoning would remain at the northwest corner of Finfeather Road and Eden Lane, where a warehouse and parking areas for a construction company are currently located. Property owners along the south side of Eden Lane would still face industrial development directly across from their single-family residences on the south side of Eden Lane. While this is still not an optimal abutting arrangement, staff believes that approving both rezoning requests**

**RZ14-08 and RZ14-10 will at least prevent the emergence of larger-scale industrial development in close proximity of single-family homes.**

**If the Planning and Zoning Commission should disagree with staff and find that Industrial District zoning on Mr. Conrad's property is appropriate and should not be changed, then staff would urge the Commission to not recommend changing the zoning on the subject property either, as it would make future industrial development on Mr. Conrad's property impossible with adopted development standards (e.g., required buffer areas).**

2. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area and shall note the findings.

**Public infrastructure is adequate to support the existing residential development on the subject property. Staff finds that the proposed change will have no immediate impact on infrastructure needs in the area. Any issues regarding utility availability will be addressed at the time of (re-) development.**

3. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

**Staff believes that this zone change request, if approved, will not make land classified for similar development in the vicinity and elsewhere in the City unavailable for development.**

4. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

**Staff contends that residential development is occurring at a moderate pace in this vicinity and elsewhere in the City.**

5. How other areas designated for similar development will be, or are unlikely to be affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.

**Other areas of Bryan zoned for single-family residential development will be unaffected by the proposed amendment.**

6. Any other factors affecting health, safety, morals, or general welfare.

**Staff is unable to identify additional factors other than those mentioned above that might affect health, safety, morals, or general welfare if this rezoning were approved.**

#### **RECOMMENDATION:**

Based on all these considerations, staff recommends **approving** the requested zone change to RD-5 District on the subject property, **but only so long as** the zoning on 0.35 acres of land at 1410 Finfeather Road is also changed to RD-5 District, as it has been requested with Rezoning case no. RZ14-08. Changing the zoning on this City block would protect established residential land use in this area, prevent the emergence of undesirable land uses in its proximity, and promote orderly urban growth in this part of Bryan.